IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9021 of 1997

with

CIVIL APPLICATION Nos.12727 of 1997 and 18 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MITESH AUTOMIBILE - Petitioner(s)

Versus

AMC & 4 - Respondent(s)

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Appearance :

MR YN OZA for Petitioner(s) : 1,
MR AMIT J SHAH for Respondent(s) : 1,
MR GN SHAH for Respondent(s) : 2,
MS MINOO A SHAH for Respondent(s) : 2,
GOVT. PLEADER for Respondent(s) : 5,
MR SANDEEP N BHATT for Respondent(s) : 3,
MR PREMAL R JOSHI for Respondent(s) : 4,
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/11/2005

ORAL JUDGMENT

Though called out twice, no one was present for the respondents. Except for respondent No.1, no other respondent has filed affidavit in reply also.

2. In the present petition, the main grievance of the petitioner was regarding the steps taken by respondent No.1 to prevent the petitioner from operating his petrol pump. The case of respondent No.1 emerging from the affidavit in reply was that the petitioner was not granted licence as the land in question was reserved for public housing for AUDA within the Municipal limits under the proposed development plan approved by the Government. It is also the case of respondent No.1 that plan for approval for construction was also rejected.

3. Learned advocate Shri Gupta appearing for the petitioner submitted that after filing of the petition there are certain developments which have taken place which need to be taken into account. He has placed on record copies of orders passed by the Municipal Corporation by which the petitioner was directed to pay an amount of Rs.16127/- to hand over portion of the land in question to the petitioner under certain conditions. The documents also include a receipt showing the amount

having been paid over by the petitioner. It is submitted by learned advocate for the petitioner that the Corporation has now by virtue of the said orders permitted the petitioner to utilise the land in question for the purpose of petrol pump and the earlier main objection against the plot in question being used for petrol pump would not survive. He submitted that on account of changed circumstances, it is necessary for the respondents to reconsider the question of granting approval and necessary license to run the petrol pump. For the above purpose, the petitioner is willing to make a representation to the respondents bringing to the notice of the respondents these developments. If the petitioner files a representation within two weeks from today, the respondents shall dispose of the same expeditiously and preferably within a period of four months of the receipt thereof. Ultimately if the decision is adverse to the petitioner, it will be open for the petitioner to challenge the same in accordance with law.

4. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent with no order as to costs.

5. In view of the disposal of the petition, Civil Application Nos.12727 of 1997 and 18 of 1998 do not survive and the same are disposed of accordingly.

(Akil Kureshi, J.)

(vjn)